IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO :19587 of 1997

Dated: 02.02.2007

Between:
Pallepu Venkaiah, S/o Narayana, 55 years,
R/o Mulakalapalli (v) & (M), Khammam District.

..... PETITIONER

AND

1. The Special Deputy Collector (Tribal Welfare)
   Paloncha, Khammam District.
2. The Mandal Revenue Officer, Mulakalapalli (M)
   Khammam District.
3. The Mandal Revenue Inspector, Mulakalapalli (M)
   Khammam District.
4. Tanam Venkatesham, S/o Krishnaiah,
   Mulakalapalli (V) & (M),Khammam District. .. RESPONDENTS

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO.19587 of 1997

ORDER:

This writ petition is filed seeking a Writ of Mandamus declaring the order of the 1st respondent dated 25.12.1996 in LTR Case No.277/96/MKP as illegal, arbitrary and contrary to the provisions of the A.P. Scheduled Area Land Transfer Regulation 1 of 1959 and the Rules made thereunder and consequently direct the respondents not to give effect to the said order as well as the panchanama dated 24.07.1997 alleged to have been conducted by the 3rd respondent herein.

The case of the petitioner is that he purchased Ac.5.00 of land situated in Sy.No.415 of 17 on 21.06.1962 from the father of the 4th respondent and since then he is in possession and enjoyment of the same as owner and possessor of the said land by paying land revenue regularly. His further case is that earlier the father of the 4th respondent initiated proceedings under the A.P. Scheduled Area Land Transfer Regulations 1 of 1959 (for short 'Regulations') for evicting the petitioner. The then Special Deputy

Collector (T.W) Paloncha by order dated 30.04.1993 in Case NO.475/93/MKP held that the father of the 4th respondent sold the land in question in favour of the petitioner prior to the enforcement of the Regulations and accordingly dismissed the petition filed by the father of the 4th respondent and that all the proceedings for evicting the petitioner were dropped. The said order has become final. It is stated that the 4th respondent again initiated proceedings before the 1st respondent under the Regulations and thereby, the 1st respondent by order dated 25.12.1996 in LTR Case No.277/96/MKP, directed eviction of the petitioner by restoring the land to the 4th respondent.

In spite of service of summons, the respondents did not choose to file any counter-affidavit.

Learned Counsel for the petitioner submits that the impugned order dated 25.12.1996 in LTR Case No.277/96/MKP, amounts to review of the earlier order of the 1st respondent dated 30.04.1993 in Case No.475/93/MKP, which has become final in the year 1993 and apart from that, the 1st respondent has no power to review the earlier order under the Regulations.

The fact that remains undisputed is that on the petition filed by the father of the 4th respondent seeking to apply the provisions of the Regulations for evicting the petitioner, the 1st respondent after an elaborate enquiry, dismissed the same and the same has become final in the year 1993. But, curiously, in the year 1996, the 4th respondent has again approached the 1st respondent for the same relief that has been sought by his father in the year 1993 and on that, the impugned order has been passed against the petitioner. Irrespective of the fact as to whether the provisions of the Regulation permit such an exercise to entertain the petition for the self same relief that has already been availed by the father of the 4th respondent, the subsequent lis initiated by the 4th respondent, is hit by the principle of res judicata. In this view of the matter, I have no hesitation to hold that the order impugned is liable to be set aside.

The writ petition is accordingly allowed setting aside the order impugned. No costs.

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(GOPALA KRISHNA TAMADA, J)

02-02-2007
Gsn.